

**SNOW REMOVAL AGREEMENT  
2023/2024 AND 2024/2025 SNOW SEASON**

THIS SNOW REMOVAL AGREEMENT (“**Agreement**”) is made as of the 10<sup>th</sup> day of October, 2023 by and between the City of Marshall, a Minnesota municipal corporation (“**City**”) and Action Company, LLC, a Minnesota limited liability company (“**Contractor**”). The City and the Contractor may hereinafter be referred to individually as a “part” or collectively as the “parties.”

**RECITALS**

- A. The City is in need of snow removal services at the Tall Grass Liquor Store, 1410 Boyer Drive, and the MERIT Center, 1001 West Erie Road, both of which are City properties (“**Services**”).
- B. The City prepared a request for proposals that outlined the requested Services, which is attached hereto as Exhibit A (“**Specifications**”).
- C. The Contractor submitted a proposal to provide the requested Services, which is attached hereto as Exhibit B (“**Contractor’s Proposal**”).
- D. The parties desire to have the Contractor provide the City the requested Services in accordance with the terms and conditions of this Agreement.

**AGREEMENT**

In consideration of the mutual agreements and obligations set out herein, and intending to be legally bound, the parties hereby agree as follows:

- 1. **Services.** The Contractor agrees to provide the City Services in accordance with the terms and conditions of this Agreement. The Services shall comply with the details set out in the Specifications and the following:
  - (a) The MERIT Center site must be free and clear of snow prior to 7:00 a.m. Monday through Saturday.
  - (b) The Tall Grass Liquor site must be free and clear of snow prior to 7:00 a.m. every day, except Thanksgiving Day, Christmas Day, and Easter Sunday.

The Contractor understands and agrees that if the City reasonably deems any of the Services to be unsatisfactory, the Contractor shall be required to correct the problem to the City’s satisfaction without the City needing to pay any additional compensation.

- 2. **Contractor Representations.** The Contractor represents and warrants to the City, as inducement for the City to enter into this Agreement, the following:
  - (a) Scope Understood. Contractor has, by careful examination, satisfied itself as to the nature and location of the work, the conformations, character, quality and quantity of the work and all other matters which can in any way effect the Services to be provided under this Agreement.

- (b) Personnel and Equipment. Contractor has and can supply the appropriate equipment and properly trained, experienced, and licensed equipment operators to provide the Services in a timely manner consistent with the terms of this Agreement. The Contractor shall be responsible for properly maintaining and ensuring the continued functioning of its equipment and for maintaining a sufficient number of adequately trained and experienced personnel needed to operate it. The City is in no way responsible for any equipment failures, breakdowns, accidents, or personnel issues the Contractor may encounter in providing Services.
3. **Payment**. The City agrees to pay the Contractor the rates indicated in the Contractor's Proposal attached hereto as Exhibit B. Payment shall be made no more frequently than once a month. The City is not required to pay any additional amounts for the Contractor to provide the Services. The Contractor shall provide the City with detailed invoices which show the per hour, per equipment and separate costs between removing, loading, and hauling snow. The City will pay all uncontested invoices in the same manner as other claims submitted to the City and in accordance with state law.
4. **Insurance**. Before the Contractor is permitted to provide the Services, the Contractor shall obtain and keep in full force for the duration of this Agreement the insurance coverages set out in this section. The required insurance policies shall apply to the extent of, but not as a limitation upon or in satisfaction of, the indemnity provisions of this Agreement. To the extent the City allows the Contractor to use a subcontractor, the Contractor is responsible for ensuring the subcontractor has at least the same types and limits of coverage. The insurance requirements may be met through any combination of primary and umbrella or excess insurance.
- (a) Workers' Compensation. The Contractor shall maintain workers' compensation insurance to the extent and limits required by Minnesota law. Such policy shall include employers' liability coverage in an amount of no less than \$500,000.
- (b) Commercial General Liability. The Contractor shall maintain commercial general liability (CGL) insurance with a limit of not less than \$1,500,000 per occurrence. The CGL insurance shall cover, without limitation, liability arising from public liability, personal injury, accidental death, property damage, and contractually assumed liability covering obligations assumed under this Agreement. The City shall be named as an additional insured on the policy and the policy shall contain a waiver of subrogation as to the City. Before commencement of work, the Contractor shall provide to the City a Certificate of Insurance acceptable to the City. The certificate and the required insurance policy shall contain a provision that the coverage afforded under the contract will not be cancelled or permitted to expire until at least 30 days written notice has been given to the City.
- (c) Automobile Liability. The Contractor shall maintain automobile liability insurance on all self-propelled vehicles used in connection with the performance of this contract, whether owned, non-owned or hired with a combined single limit of not less than \$1,500,000 each accident. Before commencement of work, the Contractor shall provide to the City a Certificate of Insurance acceptable to the City. The certificate and the required insurance policy shall contain a provision that the coverage afforded under the contract will not be cancelled or permitted to expire until at least 30 days written notice has been given to the City.

5. **Indemnification.** The Contractor shall (and shall cause any subcontractor to) defend, indemnify and save harmless the City, its officers, elected officials, employees and agents from and against all losses, claims, demands, payments, suits, actions, recoveries and judgments of every nature, including those based upon negligence or strict liability in tort, and including those brought for property damage, bodily injury or death, by reason of any act or omission by the Contractor, its subcontractors, agents, employees, or anyone else it controls or exercises control over, in the performance of the work or otherwise arising out of or relating to the Contractor's work or performance under this Agreement. The Contractor understands and agrees that the obligation to indemnify the City under this Agreement is not limited or affected by the amount of insurance obtained and carried by Contractor in connection with this Agreement. This obligation of the Contractor to indemnify the City shall survive termination of this Agreement. Nothing in this Agreement shall constitute a waiver or limitation of any immunity or limitation on liability to which the City is entitled under Minnesota Statutes, chapter 466 or otherwise.
6. **Subcontractors.** The Contractor shall not use any subcontractors to provide the Services unless the City first agrees in writing to allow the use of a specific subcontractor. If the Contractor uses a subcontractor, pursuant to Minnesota Statutes, section 471.425, subdivision 4a, the Contractor must pay any subcontractors within 10 days of the Contractor's receipt of payment from the City for undisputed Services provided by the subcontractor. Any undisputed amounts not paid to a subcontractor within 10 days shall be subject to, and the Contractor shall pay, interest of 1-1/2 percent per month. The minimum monthly interest penalty the Contractor shall pay for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from the Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.
7. **Independent Contractor.** All services provided pursuant to this Agreement shall be provided by the Contractor as an independent contractor and not as an employee of the City for any purpose. Any and all officers, employees, subcontractors, and agents of the Contractor, or any other person engaged by the Contractor in the performance of work or services pursuant to this Agreement, shall not be considered employees of the City. Any and all actions which arise as a consequence of any act or omission on the part of the Contractor, its officers, employees, subcontractors, or agents, or other persons engaged by the Contractor in the performance of work or services pursuant to this Agreement, shall not be the obligation or responsibility of the City. The Contractor, its officers, employees, subcontractors, or agents shall not be entitled to any of the rights, privileges, or benefits of the City's employees, except as otherwise stated herein.
8. **Term and Termination.** The term of this Agreement shall commence upon execution and end following the final snow event in the Spring of 2025. The foregoing notwithstanding, in the event of willful failure or neglect by the Contractor or its employees or agents to comply with the prescribed terms and conditions contained in the Agreement, or any applicable laws, ordinances, restrictions and regulations, or if Contractor fails to perform Services under this Agreement to the satisfaction of the City, the City may, in its sole discretion, terminate this Agreement upon delivery of at least 15 days' written notice of termination to the Contractor.
9. **Notices.** All notices required to be given by either party pursuant to this Agreement shall be in writing and sent to the other party at the following addresses:

To the City: City of Marshall  
Attn: Director of Public Works Jason R. Anderson, P.E.  
344 W Main St  
Marshall, MN 56258

To the Contractor: Action Company LLC  
1105 Lake Rd  
Marshall, MN 56258

All notices shall be deemed received when delivered, if hand-delivered, or three business days after deposit with the United States Postal Service, postage prepaid. Notices by telefax or email alone are not sufficient. The addresses for notices may be changed by the parties from time to time by delivery of written notice to the other party as provided herein.

10. **Entire Agreement.** It is understood that this Agreement, including the recitals and exhibits which are incorporated herein, contains the entire Agreement between the City and the Contractor and that no statement, promise or inducement made by any party hereto, or officer, agent or employee of either party hereto, which is not contained in this written Agreement shall be valid and binding. This Agreement may not be amended, modified, or altered except in writing signed by the parties and endorsed hereon. Furthermore, failure of the City to strictly enforce the provisions of this Agreement shall not be considered a waiver of either its right to require Contractor to strictly comply, or the Contractor's obligation to strictly comply, with all of the terms, conditions, and requirements of this Agreement.
11. **Headings and Captions.** The headings and captions of sections and paragraphs are for purposes of convenience of reference only and shall not be used to construe the meaning of any provision contained in this Agreement.
12. **Validity; Severability.** The provisions of this Agreement are severable. If any provision or provisions of this Agreement shall be held to be invalid, illegal or otherwise unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired.
13. **Equal Opportunity.** In performing this Agreement, the Contractor will ensure that no person was or is excluded from full employment rights or participation in or the benefits of any program, service or activity on the ground of race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status or national origin; no person who is protected by applicable federal or state laws, rules or regulations against discrimination otherwise has been or will be subjected to discrimination.
14. **Third Party Rights.** The parties to this Agreement do not intend to confer on any third party any rights under this Agreement.
15. **Data Practices.** Data provided, produced or obtained under this Agreement shall be administered in accordance with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. The Contractor will immediately report to the City any requests from third parties for information relating to this Agreement. The Contractor agrees to promptly respond to inquiries from the City concerning data requests.
16. **Audit.** The Contractor must allow the City, or its duly authorized agents, and the state auditor or legislative auditor reasonable access to the Contractor's books, records, documents, and

accounting procedures and practices that are pertinent to all Services provided under this Agreement for a minimum of six years from the termination of this Agreement.

- 17. **Waiver.** Any waiver by either party of a breach of any provision of this Agreement will not affect, in any respect, the validity of the remainder of this Agreement.
- 18. **No Assignment.** Except as expressly allowed herein, this Agreement may not be assigned by either party without the written consent of the other party.
- 19. **Compliance with Laws.** The Contractor shall exercise due professional care to comply with applicable federal, state and local laws, rules, ordinances, and regulations in effect as of the date the Contractor agrees to provide the applicable Services.
- 20. **Applicable Law.** This Agreement will be governed and construed in accordance with the laws of the State of Minnesota.
- 21. **City Obligations.** All covenants, promises, agreements, and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the City, and not of any governing body member, officer, agent, servant, or employee of the City in the individual capacity thereof.
- 22. **Time is of the Essence.** Time is of the essence with respect to each provision of the Agreement.
- 23. **Conflict of Interest.** Contractor agrees that it will not, during the term of this Agreement, enter into a contract or otherwise accept employment for the performance of any work or service with any individual, business, partnership, corporation, government, governmental unit, or any other organization that would create a conflict of interest in the performance of its obligations under this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement effective as of the date first written above.

**Action Company LLC**

**City of Marshall, Minnesota**

By \_\_\_\_\_

By \_\_\_\_\_  
Robert Byrnes, Mayor

Printed Name \_\_\_\_\_

By \_\_\_\_\_  
Steven Anderson, Clerk

Its \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

# EXHIBIT A



**CITY OF  
MARSHALL, MINNESOTA**

**SPECIFICATION AND PROPOSAL DOCUMENTS**

**FOR**

**SNOW REMOVAL SERVICES**

**FOR**

**MERIT CENTER AND TALL GRASS LIQUOR STORE**

**Proposals to be Received:**  
**Thursday, October 5, 2023 - 10:00 A.M.**

CONTACT:  
DIRECTOR OF PUBLIC WORKS  
JASON R. ANDERSON, P.E.  
OFFICE: 507-537-8773 | CELL: 507-828-7107  
E-MAIL: [jason.anderson@ci.marshall.mn.us](mailto:jason.anderson@ci.marshall.mn.us)

**REQUEST FOR PROPOSALS**  
**MARSHALL, MINNESOTA**

**TO WHOM IT MAY CONCERN:**

The City of Marshall, Minnesota, will receive proposals in the Council Chambers of City Hall located at 344 West Main Street until 10:00 A.M., on Thursday, October 5, 2023, for the following:

**SNOW REMOVAL SERVICES**  
**FOR**  
**MERIT CENTER AND TALL GRASS LIQUOR STORE**

Immediately following expiration of the time for receiving proposals, the City Clerk and Director of Public Works will publicly open proposals in the Council Chambers of the Municipal Building at 344 West Main Street.

Proposals shall be directed to the City Clerk, securely sealed and endorsed upon the outside wrapper must be marked "City of Marshall Snow Removal Services Proposal".

The City Council reserves the right to reject any or all proposals, to waive any informalities, and to accept the proposal or proposals that are in the best interest of the City. The City Council reserves the right to award each location to a different contractor.

Specifications are on file at the Office of the Director of Public Works, and vendors who desire specifications may secure them from the Director of Public Works.

No proposal may be withdrawn for at least 30 days after the scheduled closing time for the receipt of proposals.

Dated this 26<sup>th</sup> of September, 2023  
Steven Anderson, City Clerk

Published in the Marshall Independent: September 26 & October 3, 2023  
Published on the City of Marshall Website/Social Media: September 26-October 5, 2023

**PROPOSAL**  
Marshall, Minnesota  
October 5, 2023

TO THE HONORABLE MAYOR AND THE COMMON COUNCIL

The undersigned being familiar with all requirements and conditions hereby proposes to provide SNOW REMOVAL SERVICES FOR MERIT CENTER AND TALL GRASS LIQUOR STORE for the 2023/2024 through 2024/2025 winter seasons in accordance with the Project Scope attached hereto for the following price:

**Name of Company** \_\_\_\_\_

**Number of years that you have provided this type of service** \_\_\_\_\_

**TALL GRASS LIQUOR**

**Price to remove snow per occurrence:**

1. Hourly Cost for Snow Removal \$ \_\_\_\_\_

2. Expected Number of Hours to Complete Snow Removal X \_\_\_\_\_

**TOTAL (Cost x Hours)** \$ \_\_\_\_\_

**MERIT CENTER (South of CSAH 33)**

**Price to remove snow per occurrence:**

1. Hourly Cost for Snow Removal \$ \_\_\_\_\_

2. Expected Number of Hours to Complete Snow Removal X \_\_\_\_\_

**TOTAL (Cost x Hours)** \$ \_\_\_\_\_

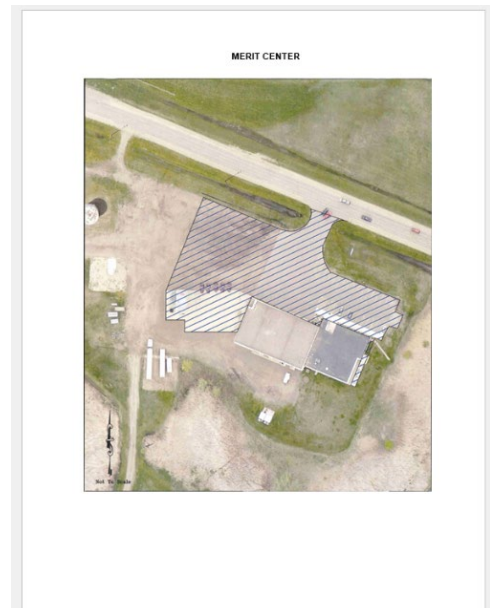
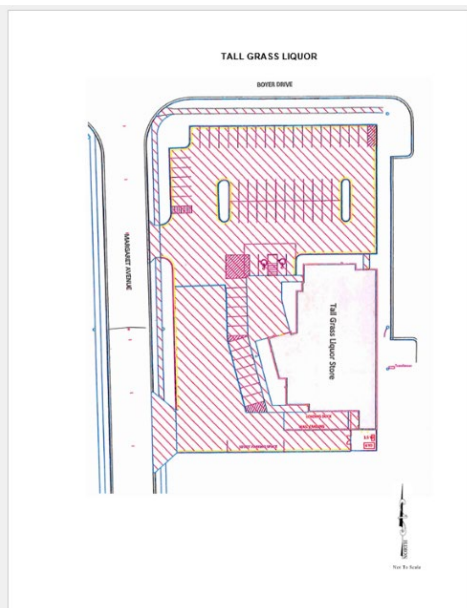
The Contractor shall furnish all labor, fuel, tools, equipment, materials, supervision and supplies necessary to complete the work. The Contractor shall maintain all tools, equipment and supplies in a safe working condition.

In submitting this proposal, it is understood that the right is reserved by the City to reject any or all proposals, to waive any informalities, and to accept the proposal or proposals that are in the best interest of the City. This includes awarding each location to a different contractor.

<b>OFFICIAL ADDRESS</b>	Respectfully Submitted,
Company Name _____	Signature _____
Address _____	Printed Name _____
City, State ZIP _____	
Phone/FAX _____	
E-mail Address _____	

**PROJECT SCOPE**  
**SNOW REMOVAL SERVICES**  
**FOR**  
**MERIT CENTER AND TALL GRASS LIQUOR STORE**  
**CITY OF MARSHALL, MINNESOTA**

- Snow removal shall commence automatically once snow accumulation has reached or is anticipated to reach two inches (2") or more without additional notification by the City of Marshall.
- The City reserves the right to instruct the Contractor to not remove snow for any specific snow event.
- Contractor to remove snow to ensure a safe means of travel to and from the buildings including entrances, driving lanes, sidewalks, steps, fire lanes, parking spaces, handicapped parking spaces, loading dock, and fire hydrant accessibility.
- Snow removal areas shall be as shown on the attached site maps.
- The MERIT Center site must be free and clear of snow prior to 7:00 a.m. Monday through Saturday.
- The Tall Grass Liquor site must be free and clear of snow prior to 7:00 a.m. every day, except Thanksgiving Day, Christmas Day, and Easter Sunday.
- Additional snow removal at each site shall be by request and at the rate shown in accordance with the Proposal.
- Proposals must be firm and guaranteed for both the 2023/2024 and 2024/2025 winter seasons. The 2023/2024 winter season begins upon notice of proposal award in October 2023 and the 2024/2025 winter season ends following the final snow event in the Spring of 2025.
- Each contractor shall file a valid certificate of insurance at the beginning of each season naming the City of Marshall as an Additional Insured. Minimum amount shall be \$1,500,000 in liability and property damage.
- Each contractor will agree to replace or repair anything damaged as a result of snow removal. This includes, but is not limited to, turf, sprinklers in all grassy areas, shrubbery, trees, benches, fences, and curbs. All repairs must be completed by no later than May 31 of each season and must meet the approval of the City of Marshall Director of Public Works.
- Unsatisfactory service, as determined by the Director of Public Works, may result in immediate termination of the Proposal.
- Contractor must notify the Director of Public Works of any hazardous conditions that may exist.
- A Contract shall be considered by the Marshall City Council based upon a recommendation from staff regarding the most responsible responder. The Contractor shall cooperate with staff in providing the required and enforce certificate of insurance, bond or escrow, and or other information requested.
- It is understood by the Contractor that the ordering and storing of salt, if any, shall be their responsibility, and that no salt will be stored on City Property unless authorized in advance by the City Administrator.



# EXHIBIT B

**PROPOSAL**

Marshall, Minnesota  
October 5, 2023

TO THE HONORABLE MAYOR AND THE COMMON COUNCIL

The undersigned being familiar with all requirements and conditions hereby proposes to provide **SNOW REMOVAL SERVICES FOR MERIT CENTER AND TALL GRASS LIQUOR STORE** for the 2023/2024 through 2024/2025 winter seasons in accordance with the Project Scope attached hereto for the following price:

**Name of Company** Action Company LLC

**Number of years that you have provided this type of service** 12

**TALL GRASS LIQUOR**

**Price to remove snow per occurrence:**

1. Hourly Cost for Snow Removal \$ 350.00

2. Expected Number of Hours to Complete Snow Removal X .5

**TOTAL (Cost x Hours)** \$ 175.00

**MERIT CENTER (South of CSAH 33)**

**Price to remove snow per occurrence:**

1. Hourly Cost for Snow Removal \$ 450.00

2. Expected Number of Hours to Complete Snow Removal X 1

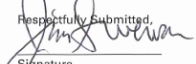
**TOTAL (Cost x Hours)** \$ 450.00

The Contractor shall furnish all labor, fuel, tools, equipment, materials, supervision and supplies necessary to complete the work. The Contractor shall maintain all tools, equipment and supplies in a safe working condition.

In submitting this proposal, it is understood that the right is reserved by the City to reject any or all proposals, to waive any informalities, and to accept the proposal or proposals that are in the best interest of the City. This includes awarding each location to a different contractor.

OFFICIAL ADDRESS

Action Company LLC  
Company Name  
1105 Lake Rd  
Address  
Marshall, MN 56258  
City, State ZIP  
501-829-7414  
Phone/FAX  
Jim@actioncompanyllc.com  
E-mail Address

Respectfully Submitted,  
  
Signature  
Jim Swenson  
Printed Name

- PROJECT SCOPE  
SNOW REMOVAL SERVICES  
FOR  
MERIT CENTER AND TALL GRASS LIQUOR STORE  
CITY OF MARSHALL, MINNESOTA**
1. Snow removal shall commence automatically once snow accumulation has reached or is anticipated to reach two inches (2") or more without additional notification by the City of Marshall.
  2. The City reserves the right to instruct the Contractor to not remove snow for any specific snow event.
  3. Contractor to remove snow to ensure a safe means of travel to and from the buildings including entrances, driving lanes, sidewalks, steps, fire lanes, parking spaces, handicapped parking spaces, loading dock, and fire hydrant accessibility.
  4. Snow removal areas shall be as shown on the attached site maps.
  5. The MERIT Center site must be free and clear of snow prior to 7:00 a.m. Monday through Saturday.
  6. The Tall Grass Liquor site must be free and clear of snow prior to 7:00 a.m. every day, except Thanksgiving Day, Christmas Day, and Easter Sunday.
  7. Additional snow removal at each site shall be by request and at the rate shown in accordance with the Proposal.
  8. Proposals must be firm and guaranteed for both the 2023/2024 and 2024/2025 winter seasons. The 2023/2024 winter season begins upon notice of proposal award in October 2023 and the 2024/2025 winter season ends following the final snow event in the Spring of 2025.
  9. Each contractor shall file a valid certificate of insurance at the beginning of each season naming the City of Marshall as an Additional Insured. Minimum amount shall be \$1,500,000 in liability and property damage.
  10. Each contractor will agree to replace or repair anything damaged as a result of snow removal. This includes, but is not limited to, turf, sprinklers in all grassy areas, shrubbery, trees, benches, fences, and curbs. All repairs must be completed by no later than May 31 of each season and must meet the approval of the City of Marshall Director of Public Works.
  11. Unsatisfactory service, as determined by the Director of Public Works, may result in immediate termination of the Proposal.
  12. Contractor must notify the Director of Public Works of any hazardous conditions that may exist.
  13. A Contract shall be considered by the Marshall City Council based upon a recommendation from staff regarding the most responsible responder. The Contractor shall cooperate with staff in providing the required and enforce certificate of insurance, bond or escrow, and or other information requested.
  14. It is understood by the Contractor that the ordering and storing of salt, if any, shall be their responsibility, and that no salt will be stored on City Property unless authorized in advance by the City Administrator.

